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Attorneys for Complainant

BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1D 2004 63825

AUDREY KELLY, PT
8901 W. Manzanita Dr.
Peoria, Arizona 85345

A C C U S A T I O N

License No. PT 12550

Respondent.

Complainant alleges:

PARTIES

1. Steven Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board.
2. On or about December 21, 1984, the Physical Therapy Board issued License Number PT 12550 to Audrey Kelly ("Respondent"). At all times mentioned herein said license was in full force and effect.

JURISDICTION

3. This Accusation is brought before the Physical Therapy Board, under the authority of the following sections of the Business and Professions Code ("Code").
4. Section 2609 of the Code states:
The board shall issue, suspend, and revoke licenses and approvals to practice

1 physical therapy as provided in this chapter.

2 5. Section 2661.5 of the Code states:

3 (a) In any order issued in resolution of a disciplinary proceeding before
4 the board, the board may request the administrative law judge to direct any
5 licensee found guilty of unprofessional conduct to pay to the board a sum not to
6 exceed the actual and reasonable costs of the investigation and prosecution of the
7 case.

8 (b) The costs to be assessed shall be fixed by the administrative law judge
9 and shall not in any event be increased by the board. When the board does not
10 adopt a proposed decision and remands the case to an administrative law judge,
11 the administrative law judge shall not increase the amount of the assessed costs
12 specified in the proposed decision.

13 (c) When the payment directed in an order for payment of costs is not
14 made by the licensee, the board may enforce the order of payment by bringing an
15 action in any appropriate court. This right of enforcement shall be in addition to
16 any other rights the board may have as to any licensee directed to pay costs.

17 (d) In any judicial action for the recovery of costs, proof of the board's
18 decision shall be conclusive proof of the validity of the order of payment and the
19 terms for payment.

20 (e) (1) Except as provided in paragraph (2), the board shall not renew
21 or reinstate the license or approval of any person who has failed to pay all
22 of the costs ordered under this section.

23 (2) Notwithstanding paragraph (1), the board may, in its
24 discretion, conditionally renew or reinstate for a maximum of one year the
25 license or approval of any person who demonstrates financial hardship and
26 who enters into a formal agreement with the board to reimburse the board
27 within that one year period for those unpaid costs.

28 (f) All costs recovered under this section shall be deposited in the

Physical Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.

6. Section 141 of the Code states:

“(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

“(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

CAUSE FOR DISCIPLINE

(Discipline imposed by another state)

7. Respondent is subject to disciplinary action under section 141 in that on or about March 29, 2004, the Arizona State Board of Physical Therapy issued a decision imposing discipline upon respondent's license to practice physical therapy in that state. It was found that respondent failed to maintain adequate patient records while she was employed at Nelson Pediatric Therapy. Respondent's license was suspended until she provided the missing documentation of the treatment she rendered to patients at Nelson Pediatric Therapy between July 2002 and February 2003. Respondent was also assessed a civil penalty of \$1,000.

Attached as Exhibit A and incorporated by reference is a true and correct copy of the Decision issued by the Arizona State Board of Physical Therapy, Agency Case No. 03-06, Docket No. 03A-06-PTE.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Physical Therapy Board of California issue a decision:

1. Publicly reprimanding Physical Therapist License Number PT 12550, issued to Audrey Kelly;
2. Ordering Audrey Kelly to pay the Physical Therapy Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 2661.5;
3. Taking such other and further action as deemed necessary and proper.

DATED: March 18, 2005.

Original Signed By: _____
STEVEN HARTZELL
Executive Officer
Physical Therapy Board
State of California
Complainant